STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Reg. No: Issue No: 2013-50494

ue No: 3016

Hearing Date: J Wexford County DHS

July 2, 2013

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on July 2, 2013 from Lansing, Mich igan. Participants on behalf of Claimant included Participants on behalf of the D epartment of Human Services (Department) included

<u>ISSUE</u>

Whether the Department properly denied t he Claimant's Food Assistance Program (FAP) application due to Claimant's student status?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

- As of May 22, 2013, t he Claimant was enrolled ha If-time in an educational institution and working part time as a self-employed child care worker earning \$100 a month.
- On May 22, 2013, the Claimant applied for FAP benefits.
- On May 22, 2013, the Department sent the Claimant a notice of c ase action.
 The notice indicated the Department w as denying the Claimant's FAP application due to his student status.
- 4. On May 31, 2013, the Claimant requested a hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An oppor tunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. (MAC R 400.903(1)). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. (BAM 600).

The FAP (formerly known as the Food Stam p (FS) program) was established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Effective April 1, 2011, client s in student status are no lon ger eligible to receive F AP benefits based solely on an approved education plan. BEM 245. A person is in student status if the person is 18 through 49 years old and enrolled half-time or more in: (i) a vocational, trade, business, or technical s chool that normally requires a high schoo I diploma or an equivalency cer tificate; or (ii) a regular curriculum at a college or university that offers degree programs regard less of whether a diploma is required. (BEM 245).

Testimony and other evidence must be we ighed and considered according to its reasonableness. Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness is testimony, and the interest, if any, the witness may have in the outcome of the matter.

I have carefully considered and weighed the testimony and other evidence in the record and find the Claimant did not meet a single ex ception to the studen t status policy and therefore the Department acted appropriately in denying the Claimant's FAP application.

¹ Gardiner v Courtright, 165 Mich 54, 62; 130 NW 322 (1911); Dep't of Community Health v Risch, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² Dep't of Community Health, 274 Mich App at 372; People v Terry, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ People v Wade, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

DECISION AND ORDER

I find, based upon the above findings of fact and conclus ions of law, decide the Department acted in accordance with policy in determining Claimant was not eligible for FAP benefits due to student status.

The Department's actions are **AFFIRMED**.

Corey A. Arendt Administrative Law Judge for Maura D. Corrigan, Director Department of Human Services

Date Signed: July 3, 2013

Date Mailed: July 3, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evid ence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical erro r, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

2013-50494/CAA

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Recons ideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CAA/las

